

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 5. CORPORATION COMMISSION

TRANSPORTATION

PREAMBLE

1. **Sections Affected**

R14-5-202	<u>Rulemaking Action</u>
R14-5-203	Amend
R14-5-205	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 40-202, 40-203, 40-321, 40-322, 40-441 and 40-441 et seq.

Implementing statute: Not applicable

Constitutional authority: Arizona Constitution, Article 15
3. **The effective date of the rules:**

September 26, 1997
4. **A list of all previous notices appearing in the Register addressing the exempt rule:**

Notice of Proposed Rulemaking: 3 A.A.R. 1972, July 25, 1997
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Peter Breen, Commission Counsel, Legal Division
Address:	Arizona Corporation Commission 1200 West Washington Street Phoenix, Arizona 85007
Telephone:	(602) 542-3402
Fax:	(602) 542-4870
6. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

R14-5-202, R14-5-203, and R14-5-205 pertain to the transportation of natural gas, other gas and hazardous liquids by pipeline and were amended to recognize changes to 49 CFR 40, 191, 192, 193, and 195 (except 195.1(b)(2) and (3)) and 199. Changes were also made in the requirement to file changes to a pipeline operator's existing operation and maintenance plans and placement of new construction on top of natural gas pipelines.

The Commission has determined that the rules in this Chapter are exempt from the Attorney General certification provisions of the Administrative Procedure Act (A.R.S. § 41-1041) by a court order (*State of Arizona v. Arizona Corporation Commission*, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable
8. **The summary of the economic, small business, and consumer impact:**

These amendments amend already existing rules. (R14-5-202, R14-2-203 and R14-5-205) under Chapter 5 entitled "Transportation". The amendments to the existing rules were designed to update the Arizona Corporation Commission Pipeline Safety rules to recognize the amendments to 49 CFR 40, 191, 192, 193, and 195 (except 195.1(b)(2) and (3)), and 199 as of February 25, 1997, (minimum safety standards for construction, operation and maintenance of natural gas, other gases and hazardous liquid pipeline facilities). The amendments create no additional cost to political subdivisions, small business or consumers.

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9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

In the Notice of Proposed Rulemaking published by the Secretary of State, A.A.C. R14-5-202(F) read:

Operators of an intrastate pipeline transporting natural gas or other gas pipeline system, will not construct any part of a natural gas system under a building or permit a building to be placed over a pipeline.

The text of A.A.C. R14-5-202(F) as adopted reflects the further clarifications proposed by Southwest Gas Corporation and the Commission's Staff. The final language clarifies that pipeline operators may require property owners to resolve any encroachments by buildings over existing pipelines, and requires operators to discontinue service where encroachments are not resolved.

10. A summary of the principal comments and the agency response to them:

The Utilities Division Staff ("Staff") has recommended the adoption of the amendments to A.A.C. R14-5-202, R14-5-203, and R14-5-205 (the "Rules"). The amendments will update the Rules by incorporating by reference the most recent amendments to the 49 CFR 191, 192, 193, 195, 199, and 40 (minimum safety standards for construction and maintenance of natural gas, other gases and hazardous liquid pipeline facilities, and pipeline operators' alcohol and drug enforcement programs). The amendments will also change the requirement for filing changes to an operator's Operation and Maintenance Plan including Emergency Plan. This will change the filing requirements from 30 days prior to making the change in the Plan to filing within 30 days of making a change in the Plan. The amendments will also clarify that natural gas pipelines are not permitted to be under a building.

Southwest Gas Corporation ("SWG") filed comments on the proposed amendments, expressing concern over the proposed language regarding the prohibition of locating buildings above natural gas pipelines. At the public comment hearing, Staff clarified its view of the proposed requirement. SWG agreed with Staff's view of what should be required by the rule, and requested an opportunity to propose alternative language to more precisely set forth those obligations. SWG later filed alternate language to amend A.A.C. R14-5-202(F). Staff indicated that it generally was in agreement with SWG's proposed language, but suggested 2 minor adjustments to further clarify SWG's proposed language. The amendments adopted by the Commission included the clarifications proposed by SWG and Staff.

No other written or oral comments were received in opposition to the amendments to the Rules.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

49 CFR 40, 191, 192, 193, 195 (except 195.1(b)(2) and (3)), and 199. These regulations cover the minimum safety standards for the construction and operation of gas and hazardous liquid pipelines. These regulations may be found at the Arizona Corporation Commission, Utilities Division, Pipeline Safety Section, 1200 West Washington St., Phoenix, Arizona 85007. These regulations are incorporated by reference in the amended rules at R14-5-202(B), (I), (J); R14-5-203(C)(2), (C)(3); and R14-5-205(B).

13. Was this rule previously adopted as an emergency rule?

No

14. The full text of the rules follows:

TITLE 14. PUBLIC SERVICE CORPORATIONS;

CORPORATIONS AND ASSOCIATION;

SECURITIES REGULATION

CHAPTER 5. CORPORATION COMMISSION - TRANSPORTATION

ARTICLE 2. PIPELINE SAFETY

Section

R14-5-202. Construction and Safety Standards
R14-5-203. Pipeline Incident Reports and Investigations
R14-5-205. Master Meter System Operators

ARTICLE 2. PIPELINE SAFETY

R14-5-202. Construction and Safety Standards

- A. No change.
- B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates and approves as its own 49 CFR 40, 191, 192, 193, 195, except 195.1(b)(2) and (3), and 199, revised as of ~~August 14, 1995~~ February 25, 1997 (and no future amendments), incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the

United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

- C. No change.
- D. Operators of an intrastate pipeline will file with the Commission an Operation and Maintenance Plan (O & M), including an emergency plan, within 120 days of the effective date of this rule. Any ~~new plans or~~ changes in existing plans will be filed within 30 days of the ~~proposed~~ effective date of the change implementation.
- E. No change.
- F. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will not construct any part of a natural gas system under a building. For building encroachments over natural gas system piping, the operator may require the property owner to resolve the encroachment (for example, moving the building or reimbursing the operator for relocat-

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ing the gas piping). The operator will discontinue service to properties for which encroachment issues are not resolved.

- G. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will not construct any part of a main or service line of a natural gas system closer than 8" to any other underground structure. If the 8" clearance cannot be maintained from other underground structures, a sleeve, casing or shielding may be used upon verification by the Pipeline Safety Section.
- H. No change.
- I. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will utilize a cathodic protection system designed to protect metallic pipe, when used, in its entirety, in accordance with 49 CFR 192(I), August 14, 1995 February 25, 1997 (and no future amendments), incorporated herein by reference, on file with the Office of the Secretary of State and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975. Such a cathodic protection will be in operation within 60 days 1 year after completion of construction.
- J. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192(F), August 14, 1995 February 25, 1997 (and no future amendments), incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- K. No change.
- L. No change.
- M. No change.
- N. No change.
- O. No change.
- P. No change.
- Q. No change.
- R. No change.
- S. No change.

R14-5-203. Pipeline Incident Reports and Investigations

- A. No change.
- B. No change.
- C. Required written incident report:
1. No change.
 2. Written incident reports concerning natural gas or other gas pipeline systems will be in the following form:
 - a. RSPA F7100.1 (March 1984 Edition) - Distribution System: Incident Report, incorporated herein by reference and on file with the Office of the Secretary of State.
 - b. RSPA F7100.2 (March 1984 Edition) - Transmission and Gathering System: Incident Report, incorporated herein by reference and on file with the Office of the Secretary of State.

3. Operators of an intrastate pipeline transporting hazardous liquid will make a written incident report on DOT Form 7000-1 (1978 Edition), incorporated herein by reference and on file with the Office of the Secretary of State, when there is a release of hazardous liquid which results in any of the following:
 - a. No change.
 - b. No change.
 - c. No change.
 - d. No change.
 - e. No change.
 - f. No change.
4. No change.
5. No change.

D. No change.

R14-5-205. Master Meter System Operators

- A. Applicability. This rule applies to the construction, reconstruction, repair, emergency procedures, operation and maintenance of all master meter systems as a condition of receiving service from public service corporations. Noncompliance with this rule by operators of a master meter system shall constitute grounds for termination of service by the public service corporation when directed informed to do so in writing by the Pipeline Safety Section. In case of an emergency, the Pipeline Safety Section may give the public service corporation oral instructions to terminate service, with written confirmation to be furnished within 24 hours.
- B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates and approves as its own 49 CFR 191 and 192, revised as of February 15, 1994 February 25, 1997 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- C. No change.
- D. No change.
- E. Operators of a master meter system will not construct any part of a natural gas or other gas system under a building- or permit a building to be placed over a pipeline.
- F. No change.
- G. No change.
- H. No change.
- I. No change.
- J. No change.
- K. No change.
- L. No change.
- M. No change.
- N. No change.
- O. No change.
- P. No change.
- Q. No change.
- R. No change.